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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 22 February 2017 from the Permanent Mission of Portugal to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Portugal to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to submit its report on the implementation of resolution 2270 (2016) (see annex).

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Annex to the note verbale dated 22 February 2017 from the Permanent Mission of Portugal to the United Nations addressed to the Chair of the Committee

Report by Portugal on the implementation of Security Council resolution 2270 (2016)

I. Introduction

The Government of Portugal is committed to implementing Security Council resolution 2270 (2016) and all previous Security Council sanctions resolutions on the Democratic People's Republic of Korea, namely, resolutions 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013), and to rendering full cooperation to the Security Council Committee established pursuant to resolution 1718 (2006).

Portugal is a party to international treaties concerning the non-proliferation of weapons of mass destruction, including the Treaty on the Non-Proliferation of Nuclear Weapons, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. It is also a member of all export control regimes, namely, the Nuclear Suppliers Group, the Missile Technology Control Regime, the Australia Group, the Zangger Committee and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

The Government of Portugal has taken the necessary legislative and executive measures to implement the Security Council sanctions resolutions on the Democratic People's Republic of Korea, and submitted its national implementation reports in 2006, 2009 and 2013.

II. Measures taken to implement resolution 2270 (2016)

Security Council resolutions are implemented into the domestic law of Portugal through decisions and regulations of the Council of the European Union, which are directly applicable in all Member States. Regulations have general application and are binding in their entirety on European Union citizens and businesses; decisions are binding in their entirety on those to whom they are addressed, i.e., all Member States (article 288 of the Treaty on the Functioning of the European Union). All European Union restrictive measures are published in the Official Journal of the European Union.

Resolution 2270 (2016) was transposed into the legal framework of the European Union, and therefore the legal framework of Portugal, by the following legal acts:

- Decision 2016/319/CFSP of the Council of the European Union of 4 March 2016, amending Decision 2013/183/CFSP.
- Implementing Regulation (European Union) 2016/315 of the European Commission of 4 March 2016, amending Council Regulation (EC) No. 329/2007, implementing the measures provided under Council Decision 2016/319/CFSP (see above).

By the above legal acts, which entered into force on 5 March 2016, the European Union added 16 people and 12 entities to the list of targets subject to

European Union restrictive measures (travel ban and asset freeze) against the Democratic People's Republic of Korea, transposing the new listings imposed by Security Council resolution 2270 (2016) in response to the nuclear test and rocket launch by the Democratic People's Republic of Korea on 6 January 2016 and 7 February 2016, respectively.

By the following legal acts, which entered into force on either 1 April 2016 or 4 May 2016, the European Union expanded restrictive measures against the Democratic People's Republic of Korea in accordance with Security Council resolution 2270 (2016):

- Decision 2016/476/CFSP of 31 March 2016, amending Decision 2013/183/CFSP.
- Regulation (European Union) 2016/682 of the Council of the European Union of 29 April 2016, amending Council Regulation (EC) No. 329/2007, implementing the measures provided under Council Decision 2016/476/CFSP (see above).

The measures include:

(a) Extension of export and import prohibitions to any item (except food or medicine) that could contribute to the development of the operational capabilities of the Democratic People's Republic of Korea armed forces;

(b) Enforcement of new cargo inspection and maritime procedures, including mandatory inspection of cargo destined for and originating in the Democratic People's Republic of Korea;

(c) Ban on chartering by the Democratic People's Republic of Korea of vessels or aircraft, and a requirement to deregister vessels;

(d) Ban on export to the Democratic People's Republic of Korea of aviation fuel;

(e) Ban on operating Democratic People's Republic of Korea vessels or using Democratic People's Republic of Korea flags;

(f) Requirement to expel Democratic People's Republic of Korea representatives and third country nationals involved in illicit programmes (as identified by the relevant Security Council resolutions) of the Democratic People's Republic of Korea;

(g) Ban on flights (of any plane) or port calls (of any vessel) if related to prohibited items, prohibited activities or designated persons or entities;

(h) Ban on export from the Democratic People's Republic of Korea of certain mineral products (including coal, iron, iron ore, gold, titanium ore and vanadium ore);

(i) Ban on specialized training or teaching for nationals of the Democratic People's Republic of Korea in specific fields that could contribute to proliferation-sensitive activities of the Democratic People's Republic of Korea.

Moreover, additional financial measures were introduced, including:

(j) An asset freeze on government entities associated with the Democratic People's Republic of Korea nuclear or ballistic missile programmes or other activities prohibited by Security Council resolutions;

(k) An obligation, on the territory of Member States:

(i) To close existing branches, subsidiaries or representative offices of Democratic People's Republic of Korea banks;

(ii) To end existing joint ventures, ownership interests and correspondent banking relationships with Democratic People's Republic of Korea banks;

(iii) To close existing branches, subsidiaries or banking accounts in the Democratic People's Republic of Korea if they could contribute to illicit programmes in that country;

(iv) To ban private financial support for trade if such financial support could contribute to illicit programmes in the Democratic People's Republic of Korea;

(l) Prohibition of Member States from opening branches in the Democratic People's Republic of Korea.

The penalties applicable to infringements of financial and trade sanctions imposed by Security Council resolutions or European Union regulations are implemented by Portuguese Law No. 11/2002 of 16 February 2002.

III. Information from Portuguese entities

The Ministry of Defence of Portugal certifies that the duly authorized defence economic operators are fully aware of the existing sanctions regime. No export, or import, license for the shipment of defence-related products to or from the Democratic People's Republic of Korea was submitted, so no refusal was issued.

The Bank of Portugal (*Banco de Portugal*) ensures the public dissemination of the sanctions regime and publishes the sanctions regime established by the Security Council and the lists adopted by the United Nations and the European Union of persons and entities that are in violation of international law or human rights, or that do not respect the rule of law or democratic principles, and therefore should have their financial and economic assets frozen, including those derived from property funds, directly or indirectly owned by them or under their control.

Following the public statements of the Financial Action Task Force, the Bank of Portugal issued national guidance specifying that the Democratic People's Republic of Korea is subject to countermeasures to protect the international financial system from the ongoing and substantial money-laundering and terrorist financing risks emanating from certain jurisdictions. In addition, the Bank of Portugal also informed the relevant national entities and stakeholders that transactions concerning the Democratic People's Republic of Korea, including transactions made or intermediated by entities of the mentioned jurisdictions, present a higher risk of money-laundering or terrorism financing for the purposes of compliance with the obligations prescribed by Law No. 25/2008 of 5 June 2008, including the ones provided in its article 12° §2, and encouraged those entities to adopt enhanced customer due diligence towards these jurisdictions.

In October 2016, the Bank of Portugal requested that the relevant financial entities under its supervision provide information about any action concerning restrictive measures against the Democratic People's Republic of Korea, including the freezing of funds. These entities responded that they did not have any business relationship, nor had they carried out any occasional transaction with the persons or entities listed by the Security Council or the European Union under the Democratic People's Republic of Korea sanctions regime.